

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC, 20554

In the Matter of)
Creation of a Low)
Power Radio)
Service)

MB Docket No. 99-25

Mr. David A. Gowler, clerk for the Board of Valley Free Radio, respectfully submits the following commentary with respect to the Second Order on Reconsideration and Further Notice of Proposed Rulemaking in the matter of Creation of a Low Power Radio Service. Creation of a Low Power Radio Service, 20 FCC Rcd 6763 (2005) ("FNPRM"). Further Mr. Gowler thanks the commission for its' work in creating the LPFM broadcast category and its' work on behalf of these new broadcast entities.

Relative to:
IV. Further notice of proposed rulemaking
A. Ownership and Eligibility
1. Transferability

TRANSFERS OF LPFM BROADCAST LICENSES SHOULD BE ALLOWED TO ENTITIES THAT ARE ABLE TO DEMONSTRATE THAT THEY ARE LOCALLY BASED AND SERVE AND REPRESENT THE LOCAL COMMUNITY.

LICENSE TRANSFERS SHOULD NOT BE MADE FOR ANY CONSIDERATION.

Regarding the issue of transfer of LPFM broadcast licenses, I would like to comment based on the real situation of our broadcast entity, Valley Free Radio (VFR), operating as WXOJ-LP of Florence, MA.

Firstly, I would like to explain the real situation that we are facing. In early 2001, people in the community heard about the opportunity for application for a LPFM radio construction permit and following, a license to broadcast. Based upon the apparent need for working with an existing local, non-profit or educational organization, a growing group of interested individuals approached a local, media reform organization and asked them if they would consider applying for such a construction permit and later a broadcast license. This local organization, the Media Education Foundation (MEF), agreed to apply for such a permit in 2001 and, de facto, incorporated into its' organization a growing body of community members as a sub-committee or project of MEF.

Over the years and especially after the arrival of the construction permit, the VFR organization grew and now, after applying for its' 'license to cover', has a large group of people as its' members. (At the 7/20/05 Monthly general meeting there were 65 attendees. Of those attendees, 60 were 'members in good standing': by definition had attended at least 3 general or committee meetings, at least 2 within the last 2 months.) At this point in time, VFR, technically a sub-committee of MEF, is larger than its' parent organization. MEF continues to support the vision and mission of VFR and it's work. However, the burden of work, which VFR has created for MEF, has become a bit overwhelming. MEF has from the beginning allowed VFR complete autonomy to conduct itself and has been content to see this 'project' unfold on it's own, as its' goals and mission are in line with those of VFR. If it were possible at this time, MEF would like VFR to take over the license to broadcast so that it (MEF) can to focus all of its' resources on its' original, somewhat related, mission.

Specifically relevant to the Commission's wish to "...seek comment regarding the types of organizational structures utilized by LPFM licensees...", VFR is an all-volunteer organization, with self-selected committees, serving under a board which is elected by, previously defined, 'members in good standing'. VFR makes non-electoral decisions utilizing a modified consensus process with resort to vote if consensus cannot be reached. Although VFR is technically a sub-committee of MEF, operating under its' authority as the broadcast license holder, MEF's organizational structure or board composition is virtually irrelevant to it.

Construction of the board of VFR, regarding retention of members, is irrelevant in the VFR organization and, in our case, does not make sense to indicate any 'change in ownership', relative to Commission regulations. I would have to agree with Prometheus Radio Project's comment ----- "We believe that democratically elected boards should be changeable at any time, by any percentage without triggering ownership change questions at the Commission."-- based on our real situation. VFR is accountable to the community through its' mission statement and is held accountable by its' active members. VFR is, basically, a non-hierarchical, actively democratic organization w/a board that serves in an administrative and organizational support role. The board could completely change and, over time, the membership of the entire organization could change, but it could still serve its' original mission and the local community.

I believe that what is more important in LPFMs-- and specifically considering license transfers-- is that the entity that a license may be transferred to continues to be locally based and serves and represents the local community. Three related and separate, equally important points are in play here, relative to either original LPFM entities or the recipient of a license transfer. One, an entity should be locally based. LPFMs should be operated by local people. Two, LPFMs must demonstrate that they are actually serving or of use to the local community. An English language station in a Spanish-speaking town is of no practical use. Three, LPFMs must represent the local community. An LPFM in that hypothetical Spanish town that is operated by the 12 Anglo people in the town, even if they do speak Spanish, does not represent that town. In short, I ask that the commission consider, at least in the transfer of licenses, that the recipient of a license transfer demonstrates its' ability to meet these three criteria. If license transfers can, efficiently and relatively expediently, be done on a case by case basis, so be it. I would suggest, however, that if an original entity wishes to transfer its' license and that there is another entity that meets these 3 criteria, that a transfer be allowed with minimal time and process.

I strongly believe that license transfers should not be made for any consideration. From the Prometheus Radio Project commentary, "The ability to do public service and provide a community voice through operation of a Low Power station is an opportunity and a privilege rather than an investment. The argument that market forces can be marshaled to ensure the highest quality of use of LPFM licenses for public service errs because LPFM licenses are precisely designed for those types of public services where market driven forces failed to provide diversity in commercial and even non-commercial broadcasting." The airwaves really should belong to the people and not to entities just because they have economic resources. I believe it was the intent of the Commission, in creating LPFMs, to create broadcast entities that serve and represent local communities. This purpose would be undermined by introducing access to LPFM licenses through monetary means.

Relative to:
Contour overlap protection and primary status.

LPFMS SHOULD BE GRANTED CONTOUR OVERLAP PROTECTION AND PRIMARY STATUS RELATIVE TO TRANSLATORS. LPFMS SHOULD BE ALLOWED TO HAVE TRANSLATORS.

Western Massachusetts is a rural area with varying topography, hills, ridges and valleys. Currently our station, operating at 100 watts ERP, because of topography, can, in some directions, not be heard well a few miles away. However, a 30,000 watt station in Newton, MA., 100 miles away, operating on the same frequency can be heard instead. This station which primarily claims a Boston market, clearly is not serving our local area, yet claims local listener's ears. If this station, for example, applied for a translator anywhere closer to our area, we would most likely lose significant parts of our current local listenership. The Commission's goal of creating LPFM broadcast entities to serve local communities is being undermined by a lack of protected contours for these new stations. Furthermore, already existing stations far from their local broadcast area currently have, with the use of translators, greater protection in the listening areas of these new local broadcasters. LPFMs' listening areas must be protected from full power broadcast entities and translators.

If we were allowed a translator we could easily surmount this terrain-based issue and reach local listeners, residing just a few miles from our antenna and studios. I believe it is the intent of the Commission to empower these new LPFMs to effectively serve their local communities. The Commission should further demonstrate its' commitment to locally originated broadcasting by allowing LPFMs to reach local listeners with the use of translators of their original broadcast signal.